

Corrections Quarterly Summary

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Contents

Capacity Changes	1
Litigation	2
Legislation	4
Quarterly Survey: Policies on Contagious Disease	5
Commissioner Changes	8
Additional Highlights	8
AIDS Information	9
Recommended Reading	10

QUARTERLY SURVEY: Policies on Contagious Disease

The survey for this quarter sought information about agency policies with regard to allowing staff to know whether inmates have contagious diseases, specifically human immunodeficiency virus (HIV) infection. The topic was proposed by George Green of the Nebraska Department of Correctional Services.

Agency Policies

Table 1, on page 7, summarizes agency responses concerning the existence of policies on staff knowledge of inmates' infection with contagious diseases and whether those policies include HIV infection. Eighteen of the responding agencies do have policies that allow at least some corrections officials to know whether inmates have contagious diseases. Ten of these states sent copies of their policies to the Information Center.

The requirements are set forth in several types of documents or mandates.

- In six states (**Massachusetts, Nevada, North Carolina, Oklahoma, South Carolina, and Washington**), agencies are guided by health services-related policies.
- In **Colorado, Hawaii, Iowa, and Montana**, personnel policies govern the issue.
- Departmental administrative policies apply in **Connecticut, Kansas, North Dakota, and Virginia**
- **Delaware's** policies are defined in a labor contract.
- **California's** position is contained in state law.
- In **Pennsylvania**, personnel policies limit information about inmates' HIV infection or AIDS to those employees with a need to know, and several labor contracts require that employees

be informed of the identity of persons with communicable diseases. In addition, an executive order calls for "a concerned and non-discriminatory environment for individuals with AIDS or HIV infection," including both state employees or persons served by the state.

- **Texas** guidelines appear both in a department administrative directive and in the department's health services policies and procedures.
- Because their policies emphasize confidentiality, **Louisiana and North Carolina** require that blood and body fluid precautions be taken with all inmates.
- Although **Kansas** does not have a general infectious disease policy, its specific policy is that medical staff notify the institution director and the central office health care administrator when a diagnosis of AIDS, ARC, or HIV infection is made.
- Employees in **New Hampshire** are notified of inmates with contagious diseases only on a 'heed-to-know' basis.

Responses indicate that, of the eighteen states that have contagious disease policies, only two (**Delaware and Massachusetts**) prohibit staff from knowing about inmates' HIV infection. **Texas** generally allows staff to know about contagious diseases except for HIV. Because of the question's wording, however, it is not clear, in some cases, whether the other states' policies allow knowledge of all infectious diseases, and therefore include HIV, or whether HIV and other blood-borne infections are mentioned specifically.

In **Alabama** all inmates with HIV infection are assigned to a special unit; therefore, all personnel are aware of those who have the infection.

Quarterly Survey, continued

Categories of Employees with Information Access

Department policies reflect the need to balance public health concerns against inmates' right to privacy. Although twelve agencies reported that all specified categories of employees (custody, programming/treatment, and administrative) may be informed when inmates have contagious diseases, most agencies also require that the staff who are informed must need to know the inmates' status or must have come in direct contact with infected inmates. Specific state policies include the following provisions:

- **Oklahoma** includes any employee who has been sexually assaulted, bitten, or contaminated with blood.
- In addition to affected employees, union officials must be informed in **Delaware** and **Pennsylvania**
- In **Massachusetts** only the commissioner and the superintendents are considered to have a need to know whether inmates have communicable diseases. Even these officials, however, may not be informed of inmates' HIV status without the inmates consent. Massachusetts has also developed a detailed procedure for handling "exposures of concern," in which employees have come in contact with blood or body fluids. In these cases, communicable disease information about the source-contact will be obtained and

communicated to the employee's physician while the source's identity is kept confidential.

- In **Virginia** and **North Carolina** only the warden or superintendent and the medical staff are informed when inmates are infected with HIV.
- **Colorado's** personnel policies allow correctional staff and parole officers to know the HIV status of those they directly supervise.
- In **Texas** the policy specifically states those officials who are authorized access to health records. In general these persons are health services staff, including treating professionals from outside the institution; the assistant attorney general and departmental general counsel staff; the Board of Pardons and Parole, the governor, and their employees; and the unit warden and his/her designees. The unit health authority must approve the sharing of inmate medical information with other personnel who have a need to know.
- Several states' policies emphasize the requirement to keep all inmate health status information confidential by reminding staff of the penalties for divulging such information.

For additional information on agency policies, contact the NIC Information Center by writing to 1790 30th Street, Suite 130, Boulder, Colorado, 80301, or call (303) 939-8877.

Survey results are tabulated on the following page.

Quarterly Survey, continued

Table 1: Agency Policies Regarding Contagious Disease Awareness

	Policy Allows Staff to Know		Policies Include HIV Infection	
	No	Yes	No	Yes
Alabama	X			
Alaska	X			
Arizona	X			
Arkansas	X			
California		X		X
Colorado		X		X
Connecticut		X		X
Delaware		X	X	
Florida	X			
Georgia	X			
Hawaii		X		X
Idaho	X			
Illinois (N/A)				
Indiana	X			
Iowa		X		X
Kansas		X		X
Kentucky	X			
Louisiana	X			
Maine	X			
Maryland (N/A)				
Massachusetts		X	X	
Michigan (N/A)				
Minnesota	X			
Mississippi (N/A)				
Missouri	X			
Montana		X		X
Nebraska (N/A)				
Nevada		X		X
New Hampshire	X			
New Jersey	X			
New Mexico	X			
New York	X			
North Carolina		X		X
North Dakota		X		X
Ohio (N/A)				
Oklahoma		X		X
Oregon	X			
Pennsylvania		X		X
Rhode Island (N/A)				
South Carolina		X		X
South Dakota	X			
Tennessee	X			
Texas		X		X
Utah (N/A)				
Vermont	X			
Virginia		X		X
Washington		X		X
West Virginia	X			
Wisconsin (N/A)				
Wyoming	X			
District of Columbia	X			
Federal Bureau of Prisons (N/A)				
Canada	X			